



Illinois Department of Insurance

PAT QUINN
Governor

ANDREW BORON
Director

TO: ALL INSURERS, REGISTERED UTILIZATION REVIEW ORGANIZATIONS
AND LICENSED THIRD PARTY ADMINISTRATORS CONDUCTING BUSINESS
AFFECTING ILLINOIS INSURED

FROM: ANDREW BORON, DIRECTOR OF INSURANCE *ABD*

DATE: DECEMBER 20, 2012

RE: COMPANY BULLETIN # 2012-12
OFFSHORING

To reduce costs, many insurance companies are considering alternative means of administering insurance contracts and healthcare plans covering Illinois residents. One such alternative is the outsourcing of administrative and utilization review ("UR") functions to facilities located outside of Illinois and the United States. This bulletin provides guidance that third party administrators ("TPA") and UR organizations ("URO") performing services regarding Illinois insureds are prohibited from conducting their activities offshore, and further explains that UR functions must be performed within the State of Illinois.

Insurers utilizing the services of a third party administrator or URO are subject to the market conduct examination provisions of subsection 5/132(2) of the Illinois Insurance Code [215 ILCS 5/132(2)]. Similarly, TPA's are also subject to the requirements of subsection 5/11.109(b). These provisions require that every company and administrator being examined provide to the Director convenient and free access at all reasonable hours at its office or location to all books, records, documents and any or all papers relating to business, performance, operations, and affairs of the company. Offshoring of TPA or UR functions denies the Department convenient and free access to books and records due to the additional time, preparation and expense attendant with foreign travel. Moreover, maintenance of the records on a domestically located server will not satisfy the requirement. The law pertains to all records, and onsite observance and interviewing of those who generate such records is often necessary to ensure both the authenticity of the record and the integrity of the process creating the record. Also, the Department has no assurance that its examination warrants will be honored and enforceable in a foreign jurisdiction. The Department will accordingly not permit the offshoring of either TPA or UR functions.

UR functions are further restricted in that they must be performed within the State of Illinois. The express language of subsection 134/85(a) of the Managed Care Reform and Patient Rights Act [215 ILCS 134/85(a)] indicates that utilization review is to be conducted "in this State." Location of UR functions within the State of Illinois ensures that the UR decision makers will be familiar with appropriate standards of care and accessible by the Illinois courts and administrative processes.